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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,412	08/24/2001	Jerry L. Aikins	ZIM0090	4304
43963 75	590 08/23/2005		EXAMINER	
ZIMMER TECHNOLOGY - BAKER & DANIELS 111 EAST WAYNE STREET, SUITE 800 FORT WAYNE, IN 46802			ROBERT, EDUARDO C	
			ART UNIT	PAPER NUMBER
	•	•	3732	

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

			e	
Office Action Summary		Application No.	Applicant(s)	
		09/939,412	AIKINS ET AL.	
		Examiner	Art Unit	
		Eduardo C. Robert	3732	
<i> The</i> eriod for Re		ication appears on the cover sheet wi	th the correspondence address	
WHICHEV - Extensions of after SIX (6) - If NO period - Failure to re Any reply re-	ER IS LONGER, FROM THE M of time may be available under the provisions MONTHS from the mailing date of this comm for reply is specified above, the maximum sta ply within the set or extended period for reply	OR REPLY IS SET TO EXPIRE 3 MI IAILING DATE OF THIS COMMUNIC of 37 CFR 1.136(a). In no event, however, may a re nunication. atutory period will apply and will expire SIX (6) MON will, by statute, cause the application to become AB after the mailing date of this communication, even if the	CATION. eply be timely filed ITHS from the mailing date of this communication. BANDONED (35 U.S.C. § 133).	
tatus				
1)⊠ Resp	oonsive to communication(s) file	ed on <u>02 May 2005</u> .		
· ·	, ,	2b)⊠ This action is non-final.		
3)☐ Sinc	e this application is in condition	for allowance except for formal matte	ers, prosecution as to the merits is	
close	ed in accordance with the practi	ce under <i>Ex parte Quayle</i> , 1935 C.D	. 11, 453 O.G. 213.	
isposition o	f Claims			
4)⊠ Clair	m(s) <u>1-7,13-16,41 and 42</u> is/are	pending in the application.		
4a) C	of the above claim(s) is/a	re withdrawn from consideration.		
5)⊠ Clair	m(s) <u>1-5 and 13-16</u> is/are allowe	ed.		
*	m(s) <u>6,7,41 and 42</u> is/are rejecte	ed.		
•	n(s) is/are objected to.			
8)∐ Clair	n(s) are subject to restric	ction and/or election requirement.		
pplication P	apers			
9)∏ The s	specification is objected to by the	e Examiner.		
10)⊠ The o	drawing(s) filed on 28 July 2005	is/are: a)⊠ accepted or b)□ objec	ted to by the Examiner.	
• •		ction to the drawing(s) be held in abeyan		
•		the correction is required if the drawing(
11)∐ The o	oath or declaration is objected to	by the Examiner. Note the attached	Office Action or form PTO-152.	
riority under	35 U.S.C. § 119			
	owledgment is made of a claim b) ☐ Some * c) ☐ None of:	for foreign priority under 35 U.S.C. §	119(a)-(d) or (f).	
1.	Certified copies of the priority	documents have been received.		
2.	Certified copies of the priority	documents have been received in A	pplication No	
3.	·	of the priority documents have been	received in this National Stage	
	• •	nal Bureau (PCT Rule 17.2(a)).		
	e attached detailed Office actio	n for a list of the partified conice not	roccived	

U.S. Patent and Trademark Office PTOL-326 (Rev. 7-05)

1) Notice of References Cited (PTO-892)

Paper No(s)/Mail Date 8/24/01.

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)

Attachment(s)

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

6) Other: _

5) Notice of Informal Patent Application (PTO-152)

DETAILED ACTION

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration, filed on March 4, 2002, is defective because:

It is noted that the inventor "George Brian Cornwall" has not signed the declaration.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Chandler et al. (U.S. Patent No. 4,936,844).

Chandler et al. disclose a bone plate 20 comprising a plate portion 30 and a substantially straight blade portion 22 extending from one another at an angle and connected to one another at a bend (see Figure 1). The blade portion 30 includes a blade end opposite the angle and the blade end includes a blade edge 28. (see Figure 1). The bend has a radius defined intermediate the plate portion and the blade portion (see Figures 1-4). The radius is dimensioned to fit closely adjacent the outside of a bone when the blade portion 22 extends into the bone (see Figure 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 7 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chandler et al. (U.S. Patent No. 4,936,844).

Chandler discloses the claimed invention except for the radius being about 0.25 inches or less. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct bone plate of Chandler with the radius being about 0.25 or less, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Allowable Subject Matter

Claims 1-5 and 13-16 are allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 for art cited of interest.

Application/Control Number: 09/939,412

Art Unit: 3732

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eduardo C. Robert whose telephone number is 571-272-4719. The examiner can normally be reached on Monday-Friday, 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo C. Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Eduardo C. Robert Primary Examiner Art Unit 3732 Page 4

E.C.R.